

CITY COUNCIL MEETING
OCTOBER 5, 1988

DIAL-A-RIDE FOR

VOTERS NOT APPROVED City Attorney McNatt made the following report regarding
"Dial-A-Ride" transportation for voters:

CC-18

CC-50(a)

CC-50(b)

In conjunction with the City's consolidation of municipal elections with the general election, the Council has directed that measures to increase voter turnout be explored. Among other things, *it* has been proposed that Dial-A-Ride vehicles be utilized to provide transportation for voters to and from the polls on election day.

In researching the legalities of this proposal, it appears that no State law would be violated. While Article 16, §6 of the California Constitution prohibits making a gift of public funds to any individual, it has been held that use of such funds for a "public purpose" is proper, and that the determination of what is a "public purpose" is generally a matter for legislative discretion (Alameda County v. Janssen (1940) 16 Cal.2d 276). Although providing free transportation to voters would obviously bestow some benefit on individuals, if the Council determined that such action was in the public interest and was thus a "public purpose", the action could be upheld. That is not to say that some Council candidate might not attempt to allege that such a plan favors incumbents who bestowed such a benefit, but this argument appears rather weak.

In addition, the proposed action does not appear to violate the provisions of Election Code §§29621 or 29622, which generally prohibit gifts or payments to voters for voting. The essence of these statutes is that some benefit, gift or consideration was given or promised to a voter to:

1. Refrain from voting
2. Remain away from the polls entirely
3. Vote for a particular person or measure.

As long as no election materials or advertisements were attached to or located in the Dial-A-Ride vehicles, urging a vote for a particular person or measure, the provisions of Election Code §§29621 and 29622 would probably not apply.

This proposal was also **discussed** with Paul Valle-Riestra, Staff Attorney for the League of California Cities, and with Deputy Secretary of State Deborah Seiler, both of whom were unaware of any reason under State law why it would be prohibited.